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**Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/307,545	05/07/99	BURTS, JR.	B 23267/16DI

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IM62/0502

EXAMINER
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RAJGURU, U

ART UNIT	PAPER NUMBER
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1711

DATE MAILED:

05/02/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

### Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

### Disposition of Claims

- ☒ Claim(s) 1-13 is/are pending in the application.  
Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-13 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

\*Certified copies not received: \_\_\_\_\_

### Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 3 (four pages) ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892 ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948 ☐ Other \_\_\_\_\_

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 4, 6, 8, 9, 11 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

These claims are indefinite in reciting an improper Markush terminology. Proper wording is "selected from the group consisting of". Appropriate amendments of these claims are needed.

*Withdrawing  
08/03/00*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Merrill (USP 5377760) in view of Messenger (USP 4579668) or Parsons (USP 2119829) further in view of Clampitt et al. (USP 3845822).

(All references are of record on PTO -1449 of parent application ser. no. 08/962213 and this application).

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Merrill discloses fiber reinforced gel for use in subterranean treatment processes. Fibers are added to a gel solution which is comprised of partially hydrolyzed polyacrylamide polymer and a cross-linking agent. Glass fibers and cellulosic fibers are preferred ~~reinforcing~~ <sup>reinforcing</sup> fibers (abstract). The crosslinking agent comprises a chromic carboxylate complex (col 3, lines 20-29). Instant claim 1). Fibers are hydrophilic and hydrophobic (col 4, lines 18-26, instant claim 3).

Merrill does not mention the (instantly claimed, in claim 1) comminuted plant materials as well as the dry mixture.

Messenger discloses well servicing agents and processes (abstract). Herein frequently a part or whole of drilling fluid, used for drilling well, is not returned to surface (col 2, lines 8-11). It is a normal practice to incorporate into drilling ~~well~~ <sup>mud</sup> various bulk materials which act as bridging agents. The include walnut shells, wood shavings, cellophane ~~paper~~ <sup>mica</sup>, sawdust, bark, sugar cane fiber etc. (col. 2, lines 40-54).

Parsons, which is directed to method of and composition for preventing loss of drilling fluid, discloses the use of sugar cane, bagasse, bamboo, cor stalks, paper pulp, ~~macerate~~ <sup>macerated</sup> paper etc. as effective additives (left column, lines 27-33).

Claimpitt discloses a method of plugging fractures in formation by placing, in said fractures, aqueous gels prepared from cellulose ethers (col. 1, lines 50-69). It is also suggested in col. 8, lines 21-25 that a dry mixture be prepared of the cellulose ~~ether~~ <sup>ether</sup>, a metal containing compound and a reducing agent and then water be added.

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Therefore it would have been obvious to add the various bulk materials obtained from plant taught by Messenger or Parsons into the gel of Merrill in order to prevent or minimize loss of drilling fluid in the subterranean treatment processes.

It would also be obvious to prepare a dry mixture of the ingredients that make up the gel of Merrill in order to reduce the cost of the gel and also to reduce the weight of gel to be carried to the site where drilling is to be performed.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-4, 7 & 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Merrill (USP 5377760).

Disclosure of Merrill is presented above in short. This disclosure reads on instant claims which therefore lack novelty.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to U.K. Rajguru whose telephone number is (703) 308-3224. The examiner can normally be reached on Monday - Friday from 9:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Seidleck, can be reached on (703) 308-2462. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3599.

*withdrawn  
08/03/00*

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



U.K. Rajguru/om  
April 26, 2000



James J. Seidlack  
Supervisory Patent Examiner  
Technology Center 1700